

DETAILED ACTION

The Appeal Brief filed September 14, 2011 has been entered.

Claims 4, 7, 8, 15, and 26-39 remain pending in the instant application.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Richard A. Sutkus on January 27, 2012.

The application has been amended as follows:

In the Claims:

Claims 33-39 have been cancelled.

4. A method for inducing apoptosis in human prostate cancer or breast cancer cells comprising:
delivering to and expressing in said cells a nucleic acid comprising:
 - i) a nucleotide sequence encoding human KChAP protein; and
 - ii) a promoter active in said cancer cells, wherein the promoter is operably linked to the sequence encoding said protein, wherein said cancer cells are in a tumor in a subject, and wherein said nucleic acid is in a viral vector which is delivered to said cancer cells by intratumoral injection, and further wherein said viral vector is delivered to said cancer cells in an amount effective to cause overexpression of said human KChAP protein as compared to a control level and to induce apoptosis in said cancer cells.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

The rejection of Claims 4, 7, 8, 15, and 26-39 under 35 U.S.C. 112, first paragraph, for lack of enablement over the full scope of the claims, is **withdrawn** in view of the cancellation of Claims 33-39 and the arguments presented at pages 5-23 of the Appeal Brief filed 9/14/2011.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

In view of the withdrawal of the rejection of record and the Notice of Allowability, the appeal stands dismissed and the proceedings as to the formerly rejected claims are considered terminated. See 37 CFR 1.197(b).

Conclusion

Upon entry of the foregoing amendment, Claims 4, 7, 8, 15, and 26-32 are allowable.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne-Marie Falk whose telephone number is (571) 272-0728. The examiner can normally be reached Monday through Friday from 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Paras, can be reached on (571) 272-4517. The central official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to (571) 272-0547.

/Anne-Marie Falk/

Primary Examiner, Art Unit 1632